

The complaint

Miss S complains that National Westminster Bank Plc (“NatWest”) won’t refund over £24,000 she lost to a fake job scam.

What happened

The details of this complaint are well known to both parties, so I won’t repeat everything again here.

In brief, Miss S fell victim to a fake job scam after receiving a message via a messaging service - I will call the scammer ‘B’. B told Miss S that she would be paid for completing a number of tasks, but she would have to open an account with a separate financial institution that I will call C and then send funds to various people via transfer. So, over a couple of months, Miss S made the following payments to C which were then forwarded on to associates of B. Miss S made the following payments;

Payment	Date	Amount	Payment type
1	21 November 2022	£491.47	Debit Card
2	22 November 2022	£2,306.90	Debit Card
3	22 November 2022	£3,209.60	Debit Card
4	29 November 2022	£3,510.50	Debit Card
5	5 December 2022	£2,502.49	Debit Card
6	7 December 2022	£6,374.07	Debit Card
7	8 December 2022	£8,224.60	Debit Card
8	8 December 2022	£45.14	Debit Card

Miss S realised she had been scammed after she was continually pressured into paying more money to B.

I issued a provisional decision on 15 March 2024 in which I said the following

“I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.”

It isn't in dispute that Miss S has fallen victim to a scam here, nor that she authorised the disputed payments she made to C (where her funds were subsequently transferred on to the scammers). The payments were requested by her using her legitimate security credentials provided by NatWest, and the starting position is that banks ought to follow the instructions given by their customers, in order for legitimate payments to be made as instructed.

However, I've considered whether NatWest should have done more to prevent Miss S from falling victim to the scam, as there are some situations in which a bank should reasonably have had a closer look at the circumstances surrounding a particular transfer. For example, if it was particularly out of character for that account holder.

I understand the investigator considered that the payment of £6,374.07 made on 7 December 2022 ought to have been regarded as unusual, given that it was larger than the payments that Miss S usually made and was to a relatively new payee. In my view this really should have been flagged by NatWest as being unusual account activity. NatWest would have known that multiple payments being made to the same payee in relatively quick succession can often be an indication of fraudulent activity. So, I'm satisfied this payment ought reasonably to have been considered as unusual and triggered an intervention by NatWest.

Had NatWest contacted Miss S at this point and used the opportunity to ask suitably probing questions, there is no reason to suggest she wouldn't have been forthcoming about what she was doing. If NatWest had questioned Miss S about these payments, it would have likely discovered that she had been 'contracted out' by a company offering to pay Miss S for completing tasks, But Miss S had been told that she would first have to pay for these tasks. I also think that NatWest would've discovered that Miss S had made a large amount of payments but had only received a small amount back despite her apparently working for B.

This is not how companies normally operate and it has all the hallmarks of a job scam. I consider there would have been reasonable grounds for suspicion here. And NatWest ought reasonably to have provided a scam warning in light of all the information then known to financial professionals about the risks associated with this type of scam.

I recognise that if an intervention by NatWest had taken place, it likely would've identified that the payment was going to the consumer's own account. But I don't think the conversation should have stopped only on the basis that the money appeared to be going somewhere safe and within the consumer's control.

I say this because, by the time Miss S made these payments, NatWest ought reasonably to have had a good enough understanding of how these scams worked, to have been able to identify the risk of harm occurring to its account holders from fraud. This includes the consumer often making a number of transactions in a relatively short space of time or a consumer repeatedly sending money to a platform where the money is subsequently moved on to or taken by the scammer. So, it is with this in mind that I think NatWest ought to have probed further about the nature and context of the payments Miss S was making.

In light of this, I think Miss S's losses were foreseeable to NatWest, despite the payment on the face of it not leaving her control. I'm also satisfied that, had NatWest asked relevant questions of Miss S, it would have been apparent that she was falling victim to a scam. In other words, but for NatWest's failure to make reasonable further enquiries, it would have been on notice that there was a very high chance that Miss S was going to suffer financial harm from fraud. Had NatWest provided Miss S with a warning, it would have led Miss S to question whether she was in fact dealing with a legitimate business – especially as she had made a number of payments to B but had only received small payments back from B. The result of this is that, probing questions from NatWest about the nature of the payments would have likely stopped Miss S from making any further payments.

As a result, I believe NatWest should refund the payments Miss S lost to the scam from transaction 6.

Contributory negligence

There's a general principle that consumers must take responsibility for their decisions. And I have duly considered whether Miss S should bear some responsibility by way of contributory negligence. In the circumstances, I'm satisfied she should do so in this case.

In the circumstances, I don't consider Miss S carried out sufficient due diligence to ensure that the company she was dealing with was genuine. Miss S was approached via a random message and was offered a job within a short amount of time. This is without signing a contract. She was told she could earn £500 a week for one hours worth of work which is unrealistic.

The tone of the messages from B are not professional and even the first few messages have typos and missing words. The screen shots of the website/app she was dealing with have more typos such as "professional advice and the most suitable comprehensive."

I also think Miss S should really have questioned why she had to open a new bank account with C to send the money to B and also why she was sending funds to a personal account from C when she was the person who was supposed to be earning money. All of these things should really have made Miss S question whether B was a legitimate company

Therefore, I'm satisfied that Miss S's lack of due diligence and failure to question what she was being promised contributed to her loss, such that she should share responsibility with NatWest. Because of this, I'm satisfied a 50% deduction is fair and reasonable in the circumstances.

Recovery

I've also thought about whether NatWest could have done more to attempt to recover the payments after Miss S reported the fraud. However, the funds were forwarded on from C to B as part of the scam. Also the Contingent Reimbursement Model ("CRM") does not apply to debit card payments

I also don't consider NatWest ought to have attempted a chargeback claim, as Miss S made payments to her account with C.

I note that the investigator has recommended that the 50% loss that it believes NatWest is liable for should be reduced as it shares liability with C. But in a separate decision that I will also be issuing I am of the opinion that C could not have stopped the scam whereas I think that NatWest could have for the reasons set out above. So, in this instance but for NatWest not intervening when I believe it should have Miss S would not have suffered any loss from transaction 6 and NatWest is responsible for this. So I think that NatWest should pay 50% of the loss from transaction 6 not 25% as recommended by the investigator.”

NatWest agreed with my decision Miss S did not respond by the deadline provided.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has raised any new points I see no reason to change the outcome of my provisional decision. Therefore in summary I think that NatWest should have intervened at transaction 6 and had it done so I think the scam would have been stopped. I also think that Miss S did contribute to her own loss so I think that this complaint should be upheld in part.

Putting things right

For the reasons given above, I uphold this complaint in part and direct National Westminster Bank Plc to:

- Refund the payments Miss S lost to the scam from and including transaction 6 onwards, minus £4,000 recovered by C. Then reduce this by 50% in recognition of Miss S's own contributory negligence towards her loss.
- Pay 8% simple interest per year on this amount, calculated from the date of loss until the date of settlement, minus any applicable tax.

My final decision

My decision is that I uphold this complaint in part and direct National Westminster Bank Plc to pay the redress outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 25 April 2024.

Charlie Newton
Ombudsman